THE LATE MURDER IN SIXTEENTH-ST.

INQUEST REFORE CORONER WILHELM .- An in quest was held by Coroner Wilhelm at the Sixteenth Ward Police Station upon the body of Dennis Mo-Avoy, a native of Ireland, 61 years of age, who was killed on the day previous by Dennis McAvoy, a distant relative, while at the porter-house of Joh Brennan, in Sixteenth-st., between Ninth and Tenth-

Ann McAvoy testified that her husband, the de Ann McAvoy testified that her husband, the de-crased, was a peaceable and temperate man, that the prisoner once stole some clothing from his daughter, upon which a quarrel ensued, during which Edward McAvoy, brother to the prisoner, said he would take the life of deceased if he ever mentioned anything about the stoles clothing, that the prisoner was always led by Edward McAvoy, and that the latter had said that they together had already killed a man self-severtum.

about the stolen clothing that the prisoner was always led by Edward McAvoy, and that the latter had said that they tegether had already killed a man at Haverstraw.

Julia Brennan of No. 249 West Sixteenth-st. testified that deceased on Monday morning met Edward McAvoy in the bar-room of her hasband, where they appeared to be friendly; that the prisoner soon came in, when deceased offered to shake hands with him, but was pashed back by the prisoner; a quarrel then ensued, and Edward pushed his brother (the prisoner into a back room; the deceased was then advised to leave the house, and did so; in the meantime the prisoner escaped from the bar-room through a window, and soon after the witness learned that deceased had been killed.

Mary Jenkins, a resident of the same house, testified that on bearing a disturbance in the bar-room she went there and saw Edward McAvoy trying to hold the prisoner, who was strugiling to get clear, and attack deceased; soon after this she learned that deceased had been killed in the alley near the house.

Luther Simon of No. 38 Testh-av, testified that he saw a man whom he does not know abuse deceased while upon the sidewalk in front of Brennan's porter house, and strike him upon the bead, when the latter fell, and the assailant walked deliberately away.

Henry Lamont testified that he saw a man come out of Brennan's place and strike deceased upon the right side of the head, when the latter fell.

Dr. Ubl made a post mortem examination of the body and found a deep wound in the forehead, which appeared to have been inflicted by some blunt weapon. In his opinion deak was caused by effusion of blood at the base of the krain, which was caused by the injuries received.

The deceased came to his dath by a blow received "at the hands of Dennis McAvoy." Upon the ren-

"the deceased came to his dash by a blow received at the hands of Dennis McAvoy." Upon the readition of the verdict the prisoner was examined by the Coroner and stated thathe was born in Ireland. is 30 years of age, a labore, and lately resided in Queens Co., N. Y. In regard to the charge against him he had nothing to say. He was then committed to prison for trial.

CITY ITEMS.

THE WHIG PRIMARY ELECTIONS-ACTION OF THE OINT EXECUTIVE COMMITTEE CONFIRMED .- The Whig General Committee assembled last evening at the Breadway House, and confirmed the action of the Joint Executive Committee at Monday evening with regard to the fixing of the time for holding the Primary elections for the choices Delegates to the Whig State Convention, to be hell at Syracuse, Sept. 20. Tuesday, Sept. 12, from the hours of 6 to 8 o'clock A. M., was the time agreed gon, and these elections are to be under the superisendence of three of the Whig Inspectors elected to save at the next general election, except in the Sevent Ward. A motion to re consider the action of the Joht Executive Committee with reference to the Seventh Ward, (where there are two Ward Committees,) whereach of the Ward Com-mittees is requested to appoint one Inspector, and Dr. Ives of the Nineteenth Wards appointed on the part of the Broadway House Committees, was lost by a vote of 35 to 35. Two personate to be elected from each Ward to the Whig Size Convention, one to serve as delegate and the our as alternate, except in the First and Second Wark composing Ist Assembly District: Third and Sixth Vards, composing Hd Assembly District; Twelfth, Enctoenth and Twentysecond Wards, comprising Ith Assembly District; Eighteenth and Twenty-first Wards, composing the XVIth Assembly District; Exteenth and Twentieth Wards, composing XIVth Asmbly District; each of which Wards shall choose tiv delegates to meet in Assembly District Convention, which Conventions shall choose a delegate at lag, except the Xth As-sembly District. The DistraConventions will meet on the 14th inst., at 8 o'cld P. M.; Ist Assembly District to meet at No. 22 anos-st.; Hd Assembly District to meet at Albany Huse; Xth Assembly District to meet at George B. On B; XVIth Assembly District to meet at Thompses Hall; XIVth Assembly District to meet at Euts House.

THE SECOND TICKET SAID-Mr. Leeds offered at auction, yesterday, at Castle arden, the seats for the second appearance of Grannd Marie. The attendance was meager and to enthusiasm of no account, the bidding being slound spiritiess. After some dwelling the first ticket as knocked down to "Mr. Spencer." Nobody kny Mr. Spencer; but the real buyer is supposed to the same "Coults" superior guirdian to make more partitive test of this Seminary, reference is made that purchased the \$250 seat of riday last, thus considered in the season of the s firming the sdage, "C'est I premiere place qui miums reaching from \$5 to \$50, and then the bidding fell off to a dollar, and for that to a shilling. The average premiums may be reached 37½ cents.

A large proportion of the sente-mained unsold.

E. C. Benedict, President ofhe Board of Education, came home in the Pacificafter a pleasant tour in Europe, whereby his bealthwas completely re-

J. Phillips Phonix is sopuring in London. He will probably return next menth.

FATAL ACCIDENT IN POUREEPSIE, -On Monday afternoon as a boy name Macey, and a son of the late Judge Barculo, we playing around the academy during recess, on arning a corner, their heads came in collision with with violence as to rapture a blood vessel and cause to death of young Bar cule. The other boy was seriedy injured and taken home insensible. The deces I boy was some if years of age at the time of historth.

RESIGNATION.—We are say to learn that Mr. Ridgeway, who has been for me four or five years or more actively engaged as anssistant to the United States District-Attorney, harsigned his situation. Mr. R. has been uniformly accommodating and courteous to the press, affording every facility for information. Independent of is, he is exceedingly capable in fulfilling the duties t the office, and has earned by his gentlemanly being, the good will, we believe, of every person hang business with the establishment. The low salariattached to the office, we understand, is the cause offis changing his situation in hopes of a more lucrafficone in private pursuits. From our knowledge of public men, we cannot but think his retirement all be a loss to the Public. We hope it may truly gove a source of gain

Programme.—The receipts eithe steamboat Issae Nema, on Friday evening, we as follows:

For bandred and fifty passengery \$1 each ... \$150

Bernands state rooms ... 535

load of freight that footed up to gre.

A horrible accident happens, few days ago at South Dover. It appears that me men were en ployed in that place (about 15 me men were en keopsie for the purpose of blast, a marble quarry. The train was set and lighted, a marble quarry soon as expected, a man of the train was going off so went forward with a large canter full of gunpowder, for the purpose of priming a rolighting. He proceeded to pour out the posts, when a spark atruck the powder and the uniquate man was

nearly blown to pieces. Both his eyes were blown out and his face and body horribly mutilated. He is not expected to recover. He is all and will leave a wife and family. He is about 35 years of age

The Treasurer of the Children's Aid Society ac knowledges the receipt of \$241 90 donations, from July 31 to Aug. 28, 1854.

O. U. A. CHANCERY, STATE OF NEW-York .- As

election for officers of this body was held on the 4th inst., when the following named Chancellors were elected: Grand Sochem-Frederick M. Butler-Union Chap-

ter, No. 45. Grand First Chief-T. Mayo Bartlett-Washington Chapter, No. 2.

Grand Second Chief - F. C. Wagner - Jasper,

Grand Second Chief F. C. Wagner - Jasper, No. 35.
C. of C.-H. S. Bancker-Huguenot, No. 42.
C. C. - Ha ey-Empire, No. 55.
C. of E.-Jeremin J. Dickenson-Alpha, No. 1.
F. C. Sielly-Nathan Hale, No. 66.
S. of A. - Wirkes-Osurgonia, No. 74.
Executive Committee-L. A. Cohen-Wayne, No. 52; - Rebins-Star Spangled Banner, No. 56; - Pewnall-Charter Oak, No. 22.
Representative to Arch Chancery-Wm. Hunt-Magua Charta, No. 38.

SERIOUS AFFRAY BETWEEN ITALIANS .- An affray. took place yesterday afternoon at No. 10 Hamilton-a., between two Italians, named Giachino Coscona and Francis Donor, which will probably result in the death of one of them. It appears that during the altercation Coscona seized a shoemaker's knife and attempted to stab his adversary with it, and did inflict several cuts on his right hand and elbow and several scratches in his face. The latter then snatched the weapon from the hand of Coscons and plunged it into his abdomen, inflicting a large wound, om which the bowels protruded. The alarm was given, and Policemen Wildey and Gregory of the Seventh Ward arrested Donor and conveyed the wounded man to the New-York Hospital. There was no one present at the time of the affray, and the above statement of the particulars of it was made by the prisoner, Donor. He was committed to await

DETECTION AND ARREST OF BURGLARS.-Three men, named John Moran, Geo. Howard and James Brunner, were detected at 1 o'clock yesterday morning in the act of foreing open a window in the rear basement of No. 38 Sixth st. Information was im-mediately conveyed to Lient. Hicks of the Seventeenth Ward Police, who taking with him two of his officers, proceeded to the place, and after a sharp fight succeeded in securing two of the burglars. The other ran off and secreted himself in the yard of premises near by, where he was captured. The two were taken before Justice Wood and committed for

PERSONAL .-- Among the arrivals at the different

Personal.—Among the arrivals at the different hotels we notice the following:

At the ST, Nicholas—Hon, S. A. Foot, Geneva; Sir Cosack and Lady Roney, Weshington; Wm. H. Whiting, Botton; W. Galt, Washington; A. J. Insersall, Galveston, Dr. Chas, H. Smith, U. S. A.; Dr. J. M. D. Carson, N. C.; R. Gedes, New-Orleans; E. G. W. Butler, Jr., Lat. C. H. Morse, Columbus, Mus. M. Stevensen, Bullimore; John J. Hollister, Buffalo; J. W. Shley, Cincinnant, O.; Authony Ellis, Peru, South America.

At the Invisa Howse—Hon, P. B. Tyler, Springfield; Frank Raid, Weschiston; Dr. H. P. Camerov, Ballimore; L. Washington, Washington; F. A. Lathopy, Wisconsig; T. L. Casey, U. S. A.; E. S. Wontworth, Chicago: Jas. Doughetty, Peorla, Ill.; J. G. Dickson, Checkmant, Ohie; Thocosa F. Siewart, New Oileans; G. Miller, Charleston, N. Y.; H. Jones, Boston, At the Asyon House—James Fowler Boston; William Tucker, Washington; J. H. Willand, Troy; Charles H. Richman, Saghaw City; Mr. Goodman, Miss.; J. D. Browne, Washington; H. W. A. F. N. Rolle, Gooldborough, N. C.; Jacob Barker, New Orleans; D. W. Corwin, Cla. O.; Benj flugyr, U. S. A.; Wm. Stowe, Lenisville.

At the Maynerocuttan Hortel—The Hon, A. P. Churchill, Ky; Hon, W. P. Convene La; Capt. Wright, U. S. A.; Col. T. S. Swan, Ala, Hon, H. Sherwood, Canada; Dr. L. H. Walton, St. Louis, M. Quian, U. S. N.; Richard L. Lewis Canda; J. T. Welsman, Chaleston; J. M. Mathews, Va.; Chas. Elet, Richmond; John Chadenne, Ala; M. Stevenson, Md.

CHARGE OF EMBEZZLEMENT --- Alex. Shankland, Charge of Embezziement—Alex. Shankland, mate of a vessel lying in the North River, was yesterday arrested by Policeman Gilliland of the Third Ward, charged with embezzing a considerable amount of goods, the property of the master of the vessel, Capt. R. T. Brown. The goods were found in the trunk of the accused, who was committed by Justice Begart for trial.

OPHELETON FEMALE SEMINARY .- This Insti-OPHELETON FEMALE SEMINARY.—This Institute is located in Eastern Pennsylvania, the present terminas of the Central Railroud of New Jersey from New Jerk; as also of the Belvideer and Delaware kaliroud from Philadelphia, Passenger trains three times daily between Easton with the Property of the Philadelphia Passenger trains three times daily between Easton with the showe cities. The town is located at the junction of the Lebigh and Belaware Rivers. The climate is pleasant and healthful. The scenery from the surrounding ominences is most beautiful and impeding. The fitness of the location of the OPHELETON SEMINARY IS recognized by every one, being on one of the most prominent of these aminences about Eaton. Retired from the confusion and business of the town, inclosed and autrounded by simple grounds for exercise all appropriate privileges are here storded. In this way it is set apart to be what it really is, an Institution for the education of youth. The view from the Seminary is most pleasing and lovely—viety in rich combination meets the cyclin every direction;

The clasmateristic features of the Institution are in hiref. Healthfunces and beamy of ignificant, completeness of arrangements, a thorough and systematic course of education, and decided moral and religious instruction. That which parents desire for their dauriniers at School—a pleasant home, good as consistency careful instruction, the cultivation of cerrete habits and polite manners—are all here in a state of lengthful development. Should these brief statements elicit the interest of

[Advertisement.] LIFE-SIZE PHOTOGRAPHS. LIFE-SIZE. PHOTOGRAPHS.—I HE ALTEBUTOR OF the public is called to our new style of Dacetrage Texture representations and all rights; the life size far emphasing in depth of constant of the c

"The Man o' War's Man, "Therese," and "Female Forty Thieves," with Mr. J. R. Scott, Mr. J. Canoli, Mr. G. L. Fox, Mrs. H. F. Nichols, Miss Hathaway, and the whole company, at THE NATIONAL THEATER TO-NIGHT.

PENMANSHIP.—The subscriber will reopen his Writing and Book Keeping Rooms This Day, Sept. 6: New pupils will be received day for private or class lustraction.

OLIVER B. GOLDSMITH, No. 362 Broadway.

[Advertisement].

GRISI AND MARIO.—The approbation of those magnificent Mesaic MenalLion Velver Carrers attract universal attention. Hiram Anderson, No. 99 flowers, has treatly reduced the prices of every description of Carrerts. N. B.; 56,500 yds. beautiful Ingrain Carrers, at 2/6,3/, 4/ and 5/ per yard. An enormous stock of Old Chorns at half price.

THE WEAKEST INVALID OR YOUNGEST CHILD reay safely use DESHLEF'S CURE for FEVER and AGE. It has no bact taste, and is a perfectly mild and eafo remedy. Sold by E. M. Guios, corner Bowery and Grand-st.

CROCKERY, CHINA, ETC.—For the largest stock best assortment, lowest prices, and most superfor pack ints, visit GOULD & ELLIOTT's extensive establishment, No. 185 Pearlst, near Maiden-lane.

Dr. J. W. CRANE, Dentist, has REMOVED from

ELEGANT FRENCH AND INDIA WEDDING AND VISITING CARDS ENGRAVED AND PRINTED in the latest style Weeding Envelopes, just imported from Paris and London; Silver-plated Door Plates; at EVERDELL'S, 302 Broadway.

TRY THE TASTELESS CURE FOR FEVER AND ACLE, DESHLER'S PILLS.—They contain no sait of Mercury, Arsence on Quinine, and immediately give an appetite and etroughter the system. Sold by W. D. CRUMBER, cor. Broad-way and 14th-st.

BROOKLYN ITEMS.

This Courts.—The Court of Over and Terminer met vesteries morning, but transacted no business, and adjourned over until Trueday next, when the convicted Commissioners of Encise will grobably be sentenced.

The Court of Sentine also convened and proceeded to impannel a Grand Jury but without success. The following prisonel as cream and the convened and the sent of the sentenced of the sent of the sentence of the

BOARD OF EDUCATION.—This body held their reg-ular monthly meeting, yesterday, when the report of the com-mittee relative to the incompetence of certain teachers of public schools, was taken up, and a long discussion ensued, without arriving at any definite result.

FIREMEN'S DIFFICULTIES.—At the last meeting the Common Ceemed the subject of the recent difficulties by tween the fremen was brought up, and after a great deal discussion, referred to the Fire Department Committee for lavertigation.

WILLIAMSBURGH ITEMS.

Potace Arrests.—The following report by Deputy Chief of Police Hunt shows that for the month ending Sept. 1 375 arrests were made by the Police on the following charges: Arson. 1; assault with deadly weapon, 1; mesult and battery on officers, 3; assault and battery, 41; abandosiment of family, 7; assault, 6; bastardy, 1; bigamy, 1; breach of peace, 8; contempt of Court, 1; drunk and disorderly, 85; drunk, 91; disorderly, 59; disturbing public worship, 1; detained as witnesses, 4; disabled, 2; escaped convict, 4; false pretenses, 2; fraud, 1; forgery, 1; fighting, 6; furious driving, 1; insane, 3; indecent exposure, 2; keeping disorderly house, 3; grand larceny, 1; petit larceny, 24; manslaughter, 1; passing bad bill, 1; rape, 1; riot, 1; runsway apprentice, 1; stabbing, 1; surrendered by ball, 2; suspicious person, 1; threat of violence, 3; vagrants, 78; violation of city ordinances, before Mayor Wall, 126.

Naterity—United States, 81; colored, 22; Ireland, 301; Germany, 136; England, 28; France, 6; Scotland, 1.

A Surrosed Thier.—Yesterday Officer Bell proceeded to the house of Tobaldo Monzells, alias Chas. Williams, ailas Chas. White (mentioned as having been arrested in South Eighth-st. late on Sunday night, with teols suitable for burglary). In his trunk were found a valuable gold lever watch, nambered 4,188, Alfred Lockett, N. Y., maker, a lady's gold pencil, with the initials "A. F.," and a diamond cluster breastpin. Monzella was detained to await examination.

NEW-JERSEY ITEMS.

BANNER PRESENTATION. -Jersey City Lodge No 5 of the American Protestant Association, mostly composed of Irishmen, was presented with a beautiful banner on Monday evening at Francia Hall. It was the gift of ladies of Jersey City. A large audience was present to witness the presenta-tion. The Rev. Dr. A. W. McClure of the Reformed Dutch Church regards it is hard.

FUNZBAL OF CAPT. POLLARD,-The funeral of Wm. FUNDRAL OF CAPT, POLLARD,—The funeral of Wm. A Pollard of Jersey City was largely attended at Newark yesterday. The Continental Guard, of which he has been the Captain since its organization, were out in Tail-Gree. Hiram Lock and Variek Lodge of Free Masons in Jersey City were out to the number of about 70; the Old Fellows and the United Americans of Jersey City were largely represented. Gen E. R. Wright and Staff, the Wright Independent Riddes, the officers of the Ellis Guard, and members of the Real Control of Philadelphia also united in the others of the Real Control of Philadelphia also united in the others of the Real Control of Philadelphia also united in the other of the Real Control to the First Freeleyierian Church burying ground was imposing. At the grave, after the usual religious services, the burial coremnices of the Free Masons was conducted by Deputy Grand Marick Lodges, and by Past Master Tittle of Hiram Lodge. They were all in this legals. The Continental Guard then fired a salute over his grave, and all retired.

solute over his grave, and all retired.

Temperance meeting was held at the Central Presbyterian Church under the austices of the New-Jersey Prohibitory Liquot Law Association. Enoch Boiles, Jr. President of the Association presided. An address prepared by the Executive Committee was read, setting forth among other things that the State is bound to afford protection to those suffering from alcohol, and the opinion of Chief Justice Tacey and others was cited to prove the constitutionality of the law. Several of the react a wful crimes committed by drunken men were adduced as withered or the latter and the case of the latter traffic, and by a system of calculations the pecuniary injury done in our system of political economy by liquor was presented. Thus in New-Yerk State it was set down at \$73,44,000 per year; in the entre Union. \$472,940,000 per year, in New-Jercey, \$11,000,000; in Newsork, \$1,225,440, and in Tranton, \$365,000. In view of these facts such the increase of grey shops, a stems appears was made to the community for the suppression of intemperance by lexibility aid. The Hon Tracolore Fredbylowsen as decreased the meeting at considerable tength; and the Rev. Mr. Kenny followed with brist remarks:

Of seven deaths in Newark vesterday, up to

The erection of the building of the Reformed Dutch Church, Jersey City, commenced a year and a haif ago, has been suspended for the season for the want of funds, being about half completed.

LAW INTELLIGENCE

U. S. COMMISSIONER'S OFFICE-Before Commissioner

U. S. COMMISSIONER'S OFFICE—Before Commissioner Mostrox.

CHARGE OF OFENING AND TAKING MONEY FROM A LETTER.

Eliza O'Leary complained of a young man named John Lagan, attending bar or store, for Mr. McGee, at No. 97 James-st. An examination took place yesterday. Mrs. O'Leary stated that she has two sisters and their families, residing at Chicago; she has reason to believe the letter shown was addressed to her from there; she resides up-stairs, at No. 97 James-st.; she received the letter through Hayan, who gave it to her boy; it had been opened, and there was no money in it: I went to Lagan; he said he thought it belonged to another Mrs. O'Leary, and he sent it to her, but it was returned to him: defendant afterward gave Mr. Walsh, Police Officer, a \$10 bill to take \$10 out of it, and Mr. Walsh gave \$10 to me; this was in Mr. McGee's atore.

Officer John Walsh testified to having seen Lagan about the letter. He said he had sent it to another Mrs. O'Leary, I told him he could not have made a mistake, as Mrs. O'Leary lived up-stairs; I told him he had better give up the money, or he would go to State Prison; he finally acknowledged to having opened the letter, and taken the money out; he gave me a \$20 gold piace to take \$10 out of.

David O'Leary, residing in Water-st., and his wife, testified to a letter having been sent to them; Mrs. O'L opened it; there was no money in it; on reading if, found it was not intended for her, it beginning "Dear Aunt," and returned it to Mr. L.

These being some doubt, on the cross-examination of Officer Weish, as to whether Logan actually said he had taken the money, the complaint was dismissed.

COURT OF COMMON FLEAS—in CRAMBERS—Before

COURT OF COMMON PLEAS-IN CHAMBERS-Before
Judge Woodbuff.
HABEAS CORPUS.

A young man named Wille who had enlisted in the

ermy, was brought up, on application of Mr. Whea-

den, his counsel, for discharge, on the ground of mi-nor ty. His sater testified to his being under 21, and he was discharged.

con, his counsel, for discharge, on the ground of minerity. His state testified to his being under 21, and he was discharged.

SUPREME COURT—SPECIAL TERM.

PARTNERSHIF ADVENTURE IN COTTON.

Robert Lewin survivor of Jonathan Ogden & Co. vs. Thomas J. Stewart and William P. Wright.

Roosevelt, J.—This suit was commenced in the late Court of Chancery, in August 1, 1844. It was brought to trial without a jury in this Court on the pleadings and proofs. Its object, according to the prayer of the bill, was to compel the defendants, who composed the late firm of Stewart & Wright, to bear one half of the loss of a cotton adventure to Liverpool, alleged to have been entered into on the joint account of the plaintiffs and defendants. On the 16th of March, 1844, the late firm of Jonathan Ogden & Co. composed of Ogden and Lewis, purchased for shipment 285 bales of cotton at sc. per pound, making an aggregate price of 89,090 80. The defendants, who were cotton centers as well as cotton brokers, hearing of the intended adventure, requested, it is alleged, to be let in, and were admitted to an equal joint in terest, thus creating a particular partnership, with all the rights and liabilities, so far as that single shipment was concerned, incudent to partnership transactions. The adventure, it appears, instead of a profit, resulted in a loss of \$1,75 *44* the whole of which the defendants have left Messrs. Ogden & Co. to bear; one of the defendants (Wright, who, however is insolvent, admitting his liability; the other (Stewart) insisting that Wright had no authority to bind the firm of Stewart & Wright in any such adventure, and that he (Stewart) never consented to take an interest in it, "otherwest his propersentations."

[After reviewing at length the facts in the case, the

"false representations."

[After reviewing at len, th the facts in the case, the Judge says:]

For greater clearness, I will state my conclusions in the form of distinct and separate propositions: 1. That Stewart & Wright did, in sact, and without any false or fraudulent inducement, agree to become jointly interested as partners in the shipment in question. 2. That such contracts of partnership, although the subject of adventure may be over \$50 in value, are legally binding whether reduced to writing or not. 3. That if within the Statute of Frauds, they are also within its exception validating the bargain if "the "buyer shall accept and receive part of such goods." 4. That the seller in such case, being himself also a joint buyer, his acceptance, which is a necessary incident of the contract, is the acceptance of both 5. That, at all events, the contract in this case having been made while the article was still in Miller's hands, his delivery of the cotten to the captan on board of the Sterling, and its acceptance by the latter on behalf of the shippers, was in legal effect the act of all the partners, by their lawfully authorized agents, and tantamount in all respects to a "receipt and accept" anne of the goods" by the principals—thus, as a necessary consequence, and by the very terms of the statute, superseding the requirement of a "note or "memorandum in writing subscribed by the partice," and rendering the contract binding upon them without that usually indispensable and always advisable formality. As the defendants have released the defendant Wright no decree can be made against him. But that release, since the act of April, 1838, camot impair the plaintiffs remedies—as against the other joint deb ter—nor the right of the latter, after paying the claim, to call on the discharged partner for his retable portion. Judgment must, therefore, be antered for the plaintiffs against the defendant Stewart for the \$379.28, with intorest and costs. faire representations."
[After reviewing at length the facts in the case, the

SUPREME COURT-SPECIAL TERM-Before Judge CLERKS.

WILL OF JOHN JACOB ASTOR.

Decisions.

Will of John Jacob Aston.

Langdon spainst Wilks and others Construction of the will of John Jacob Astor. The Court—The testator, the late John Jacob Astor. Gwised lands in various parts of the City of New York to the children of his daughter Dorothy (Mrs. Langdon) during their lives respectively, and on the death of each of them, to his or her surviving issue in fee simple, to be divided according to the number of the children. The will authorized his attentions, at the request of any of the persons to whom these lands are devised, to set apart their shares acverally, subject to the future estates limited in the devises; and he further authorized the executors to charge the lands with sums to equalize the shares in case the land itself cannot be so partitioned as to produce equality. He also authorized his executors to convey to the Trustees of the Astor Library a certain portion of these lands at a valuation to be ascertained by them; and he provided that the amount of such valuation shall be apportioned among the devisees as an equivalent for the land, and shall be held and disposed of in the same manner as he directed in relation to the land, both as to the capital and insome.

It is clear, then, that the land not thus conveyed, and the proceeds of this valuation should be equally alike capable of division among the devisees precisely as if no part of the land were converted into money. Unless we can discover something in the will indicating a different intention, we must conclude that the testator designed that the money should be included in the partition as well as the land of which it is taken as an equivalent. The will contains nothing inconsistent with the urrangement. Indeed, the conversion into money of a part of the lands facilitated the partition for which the testator especially provided, subject to the option of any of the devisees, by taking the remaining lands and the proceeds of the land conveyed to the Trustees of the Astor Library, and regarding them as identical—an equality of

subject, like the land itself, to pertition (as it most assuredly is) applying to former directions to equalize the shares as nothing more than charging any of the respective parties of this valuation; to which by the positive provision of the will the whole subject of the

the shares as nothing more than charging any of the respective parties of this valuation; to which by the positive provision of the will the whole subject of the devise is made liable.

But to this, I believe, none of the parties concerned, whatever may be their doubts, make no decided opposition. The chief difficulty arises on another point. The will authorizes the tenant for life, with assent of executors, to sell one half of the shares devised to him for improvement of the residue of his share. If the share of such party, however, consists of a partion of the amount of the value of the land conveyed to the Trustees of the Astor Library, is it in accordance with the intention of the testator that this should be apportioned to such improvement instend of compelling him to sell more of the land to effect the same purpose? or rather the question is, can the Court effectuate a purpose of this kind, slithough it may not strictly be within the letter of the will, if it is in conformity with the substance and spirit of it, and plainly promotes the ends which the testator himself must have contemplated in providing for the arrangement?

In the erecution of their duties the grantees of a power are bound to a strict, and in many cases to a literal adherence to the instructions conforming the power. In such cases nothing is left to their discretion. But it does not follow that there is no remedy when a literal execution of the power would produce difficulty or embarrassement, or unnecessary trouble, when a slight deviation from the instructions of the granter would effect the purpose with greater facility, and no detriment to the interests involved, and would equally benefit and certainly accomplish the object designed by the testator. Equity will nover compel the performance of a duty by circuitous and complicated process, when it can be done without any violation of the intention of the testator by direct and convenient means. The history of the equitable instructions are designed, and although they may be merely priv

private endowments, the Court has never hesitated to interfere.

In the present case, to compel a devisee to sell a part of the land for the improvement of the romainder, when a fund is already provided by the sale of another portion of the devise, merely because that sale was not specifically for the improvement, would be too fastidious a construction of the testator's intention, when we plainly perceive that the object for which he was desirous of provising was, that the money should be applied to such improvement, and that no more than one-half of such devisee's share should be sold for that purpose. Whether the money, in point of time, was received by the executor before the devisee thought it necessary to appropriate it for that purpose, or whether the land was sold professediy for such an apprepriation, was but a secondary consideration, rather subsidiary than essential to the end proposed by the testator in the numerous and complex a rangements contained in his will.

Therefore, if say of the tenants for life shall be desirous of improving any part of the real estate to be apportioned and set apart for him or her, the exceedants are authorized to make provision for the application of the shares of said party in the fund produced by the sale to the trustees of the Astor Library, for the purpose of such improvement, with the like effect as if the same were the proceeds of real estate sold by the tenant for life, with the assent of one of the executors uniting in the deed, pursuant to the provisions of the 1th section of the will.

visions of the 11th section of the will.

Mailids McKay, by Canriel Franchers, her father, her next friend, apt James McKay.

Suit for a separation from bed and board, and that plaintiff may have the custody of the three children of the merriage.

In her complaint, Mrs. McKay says they were married at Detroit, and resided, for some time at Michigan, but came subsequently to New York, and that she resides sow with her lather at Brooklyn. The application is on the ground of abandonment, and that his habit of using inoxicating figures and of swearing, renears him unfit for the casedy of the children, whose care and education she now dains—also for alimony, and that a farm which belongs to her individually at Madison, New-Jersey, may be secured to her and her children, it being barely sufficient for their subsistence. She also complains that detendant has obtaired possession of their claest child, a little boy 10 years of age, and toreatens to take from her the other two. She says they removed from New-York to Madison, but that he left her and the children there for three months, doing little or nothing for them, and also left them a second time, &c. The allegations are denied.

Judge CLERKE yesterday rendered the following

"The defendant's answer amounts to a traverse of "The defendant's answer amounts to a traverse of the allegations in the complaint, relative to abandonment, &c. The absence of the defendant, and his residence within a few miles of Madison, his home, during a period of about three months, without a single visit to his wite and children, and a second absence soon afterward, leaving his family without adequate provision, form strong reasons for belief that he was destitute of any regard for them, and that he, in truth, abandoned them. The habit of constantly dritking intericating liquors from morning until night, although net producing the effect of total inebriety, and his profate swearing corroborates this conclusion; aithough net producing the effect of total inebristy, and his proface swearing corroborates this conclusion; which is not sufficiently rebutted by the proof introduced by the defendant, to show that his wife consented to his absence. He alleges that she wrote to him very frequently, urging him not to return. Why does he not produce the letters, showing her consent? The object which he alleges induced his absence in the City of New-York, could be accomplished, if at all, without an uninterrupted absence from his wife and child for three months, in the mean time making no provision for their support."

no provision for their support."
Separation decreed; plaintiff to have the custody of the children. Reference to S. Cambreling, Esq., to settle the amount of alimony.

U. S. DISTRICT COURT—Before Judge BEYTS.

The September Term opened yesterday forenoon. The names of Grand Jurors were called, but only six (out of 24 summoned) answered. The names of Petit Jurors were also called. The Court ordered a fine of \$10 to be imposed upon the absent Jurors. The Judge said it is probable that a number of gentlemen are yet out of town, and the Juries will be discharged, consequently, till Tuesday next, when the Clerk will probably have been enabled to get the Juries full. The pay for Grand and Petit Jurors, in the U. S. Court, being \$2 per day, there is always an abundance of applications to the Marshal to be put on.) The U. S. District-Attorney (Mr. McKeon) has announced, the Court said, that he will be ready to proceed with the criminal calendar at the commencement of the week, so that the trials would proceed on Tuesday. [There are forty causes, we understand, on charges of attempt at revolt and other offenses on the criminal calendar.] U. S. DISTRICT COURT-Before Judge BETTS.

COURT OF GENERAL SESSIONS—TURSDAY—Before
Judge SERSE.

The Court resumed its sitting at the usual hour this merning, and the following persons were impanueled as Grand Jurors; Samuel S. Constant, foreman, Henry & Barnes, Nathaniel T. Boyd, Berj, Beekman, Wm. E. Barnes, Nathaniel R. Long, John A. Luquer, Lewis Budford, David Beach, Gabriel A. Arnoux, Andrew Yoss, James B. Bartholomew, Chas. Foreman, Robt. Henry, Wilmed Oakley, Waiter H. Tayler, John Hanley, Barret L. Saliman and Dennis Muffins. To these gentlemen Judge Beebe delivered the usual charge, in which he directed them to take cognizance of all violations of the lew against public officers teking more than the fees allowed them by law. He usped the Grand Jury to expedite the business before them, as the calendar was large, there being upon it 79 prison cases, besides a large number of bail cases. After listening to the charge, the Grand Jury retired to their room to begin their labors for the session.

Sebestian Turner was then placed on trial and converted of stabbing Francis Clarke of No. 75 Lowisst, with a sword-cane, with intent to take his life. The particulars of the assault were fully published at the time of its occurrence. The prisoner was remanded to await sentence, and the Court then adjourned for the day.

DAVIS—OAKLEY—On Monday, Sept. 4, by the Rev. Won.
S. Banich, Mr. Thomas J. Davis, of this City, to Miss Mary A.
Oakley, of the total of Westhester, N. Y.
H.E.MAN, Carlotter of Westhester, N. J.
Carlotter, N. J. by the Rev. John Q. Adams, Mr. George G.
Hirman, of Broaklys, to Miss Caroline, daughter of the Host.
J. Carlotter, P. S.
J. Carlotter, P. S.
J. Carlotter, P. S.
J. Cording to the Order of Friends, Halliday
Jackson, of the City of New-York, to Emity Hoopes, daughter
of Thomas Hoopes of the former place.
LYMAN—58 RAN—In Codar Rapids, Linn County, lowa,
August 19, Frederick Lyman, of Allegan, Michigan, forcaeriy
of Vermont, 2 and Joenna B., younged daughter of the late Cuty
John Bryan, of Charleston, S. C.
W.S.TERVELT—FURD—On the 5th inst., at the Freshyterian Church, at Perth Amboy, N. J., by the Rev. Benj. Cory,
Daniel D. Westervelt, of New York City, to Mary Jane, daughter
of the late Chailes Ford, of the former place.

BEVAN—Sept. 5. John Richard Iron Bevan, aged 3 years and 3 months, only son of Mr. John Bevan, Jersey City.
GLITSH—On the Six inst., Caspar Glitsh, aged 34 years.
The remains were taken to the Comatery of the Evergreens, from McDongalest, Brooklyn.
JACKSON—On Tucsday, 5th inst., Heleu, wife of Wm. H. Jackson, aged 31 years.

JACKSON-On Treeday, on mee., treed, whee of which ackson, aged 3) years.
The friends and relatives of the family are respectfully invited to attend her funeral, on Thirrilay, the 7th inst., at 1 selection, from her late residence. No. 35 Smillyan at. Her remains will be taken to Cittaen's Union Cemetery for intermediate, KEMP-In the Giv, on the 4th inst., busan La Brayero, but y child of Aired F. and Ceclin Nollion Kennp, aged 13

only child of Alired 7. and tector mouths and 11 days.

Mcl.NTUSH—Of consumption, at her brother's bouse, No. 10 Horanost, on the 4th inst., Margaret McIntosh, and 28 years, a native of Perthshire, Scotland, wife of Mr. John McIntosh,

Horatio-st., on the 4th inst., Margaret Mentiosan, and any years, a native of Perlishire, Scotlana, wife of Mr. John Melniosah, stoncentier.

PATERSON—In Jersev City, N. J., on Monday, Sept. 4, of putrid sore throat, John Faterson, aged 21 years, formerly of Gasgow, Scotland.

Glasgow Fost and Ecassiner please copy.

PENTZ—At the residence of her father, the Rev. B. Hoff in Germantown, Datchess Co., on the 4th inst., Sarsh L., wife of Fredrick Pents, Jr.

The trieude and relatives of the family are invited to attend the funeral, on Wednesday, the 4th inst., at 34 o'clock, at the residence of F Fents, No. 13 West 18th 8t.

ROSE—At Venkers, on Monday evening, Sept. 4, Mrs. Caroline M. wite of Levi P. Rese. Eeq., and daughter of the hale Rev. John C. Green, of Broaklyn, L. L. aged 21 years.

The relatives and triends of the family are invited to attend the funeral at her late residence, on Wednesday morning, at 74 o'clock. Her remains will be conveyed to Greenwood. Carthege will be in waiting on the arrival of the boat from Yauring, Sept. 2, Ohndiah Titus, in the 67th year of his age.

Willmans—At Cedar Replat, lows, and hydrey whener parents removed to Hinsos, when she was but man years of the parents removed to Hinsos, when she was but man years of the parents removed to Hinsos, when she was but man years of the parents removed to Hinsos, when she was but man years of the parents of the following the she was but man years of the parents of the Septing, in-

her parents removes to timos, when are was out man years at ZIEGLER—On Thesday, the 5th inst., Jacob L. Sebring, infant one of G. Frederick and Admisside A. Ziegler.

The relatives and friends of the faurity are respectfully intime the residence of his father, No. 69 Horatloost.

COMMERCIAL MATTERS.

Sales at the Stock I	Exchange SEFT. 5
#11,500 City 5s, '75,163	125 Hud. Riv. RR #3
Sees Erie at Mrg. Bonds, 93	1 50 do b(10)
7 tot Frie Income Bonds, 73	160 do
9 606 Erie Con. Bds., '71 61	30 Cleve, C. & Cin. RR
2 can linds. Conv. Bds.,c. 67	35 Cleve & Pitta RR
28 cts 10, Cen. R. R. Bde. , 624	550 Erie Railroad
5.300 do	50 do
4,500 do 602	
5: Mechanics Bank 140	100 do
6 Bank of America 1065	100 do10
47 Am. Exchange Bank, 1654	500 do
75 Del. & Had Canal Co.c. Had	50 do
450 New Jersey Zine Co.s3 of	100 do
5 Crystal Palett 5	100 do
200 Nionregus Transit Co., 214	450 60
100 00	25 do
166 Cumb, Coal Co b4 28	30 dobill
200 do	150 40
100 do 201	100 do
650 Gold Hill Mide 85 24	335 do
200 do	50 do
50 N. Y. Central RR., \$10 87	
90 do	250 do
50 do	200 do
150 do	400 do
25 da 6 871	900 do
50 do	[400 doa3
50 do	100 do
174 Cley, & Toledo R. R. hd 68	

The business at the Stock Board was not very

TUESDAY, Sept. 5-P. M.

another house with about a million of bills receivable had not a dollar unpaid. These facts speak loudly for the general ability of the mercantile com-

munity to meet its engagements.

The redemption of the public debt last week £959 810.

The receipts of the Milwaukee and Mississippi Railread for August are as follows:
Preight 919,101 #7
Passengers 15,032 05

The cholera lessened the passenger receipts, and the repairs on the road lessened the freight. The receipts, netwithstrading, exceed the estimate of Mr. Brodhead, the Superintendent, for August, by \$2,139 90, and from January by more than \$40,000.

\$2,139 90, and from January by more tran \$40,000.

A "Bondholder," in a communication to us, suggests the following plan for retiring the Income Bonds of the Eric Railroad. He proposes to make mortgage bonds, payable in twenty or twenty-five years, to the extent of seven millions of dollars, and issue them to the helders of convertible bends at ninety cents on the dellar, payable one-half in cash and one-half in convertible bonds, or payable in equal amounts of income and convertible bonds, the Company paying the taker 10 ? cent. in cash on the amount of income surrendered. "Bondholder" argues that the advan-tages held out to convertible bondholders in thus seuring their remaining bonds by mortgage would incuring their remaining bonds by mortgage would adduce them to come into the arrangement. The plan appears to be worthy of consideration. If it could be carried out under the half-cash proposition, it would give the Company about three millions in cash, which would be nearly sufficient to meet all payments up to February, including the income bonds. Assuming the new mortgage bonds would sell at 75, the result to the taker of ten thousand dollars would be as fol-

Total. \$9,000
Sales at 73 7,500
Deduct cash paid. 4,500 .. 65,000 to reimburse the \$4,500 of Convertible Bonds as

selling at 61. The above result yields about 664. If, therefore, the new Bonds were certain to be sustained at or above 75, the Convertible Bonds holder would be in a better condition than now, and the financial difficulties of the Company would be removed. There is no doubt that the very accomplishment of such an arrangement, thus relieving the Company from the Income Bond incubus, would immediately influence all the securities of the Company, and the new Bends would be current at 80 or 85. The road would then have a mortgage debt of twenty millions secured by property which has cost thirty-five millious, and the payment of the intrest secured by a revenue of five and a half millious, to be increased, probably, to six millions next year. Such a Bond in ordinary times should command par. If thought advisable to add a sinking fund to this scheme, it would make the pro-ject so much more acceptable to the parties interested, and materially assist in maintaining the market price of the new Bonds. We don't know that the above is the best suggestion which can be made to solve the Income Bond problem, but it certainly has so no appearance of feasibility about it.

the Income Bond problem, but it certainly has so no appearance of feasibility about it.

ERIE RAILROAD.

The continued depression of the securities and stock of the Erie Railroad, consequent upon the distruct fails as to their relies, is the great feature in the stock market. The effect of this depression extends far beyond the leas involved in the decline that has been, or is likely to be suffered, even should the whole investment in the road turn out to be entirely solucless. Erie securieties cannot seriously decline without a corresponding decline of all others. Look at it as we may, the success of this road must and will be regarded, to a very considerable extent, as a test of the productiveness and value of American railroads. The business capacities of its route, and its favorable reharders both for economical constraction and working, have been believed to be unquestioned. The west of success, if the road fail, will be regarded as proving one of the two things; either that our railroads cannot be made to earn an interest on their cast; or what practically amounts to the same interest on their cast; or what practically amounts to the same interest on their cast; or what practically amounts to the same and therefore their cast, or what practically amounts to the same cannot be made to do so in consequence of currupt or incompetent menagement. The degree of success of the Erie Railroad therefore will be taken as a test of the probable success of the whole system. There is note for which success of the Erie Railroad therefore will be taken as a test of the probable success of the contact of the contact of the contact of the success of the success of the success of the contact of the c

The business at the Stock Board was not very large to-day, but the feeling was better, and at the Scored Board the market was quite busyant. Eric has been the feature of the day, advancing rapidly from 32 to 34) and closing at 34)—an improvement of 2 W cent. on the closing prices of yesterday. There appears to be a combined and strong movement in this stock. Keading improved 1 W cent. Central 4 C cent.; Cumberland 3 W cent.; Nickragus 1; Canton 1 W cent., &c., showing a general devance, in gruphly with the improvement in Edic. The Western Ronds are quiet but firm. Eric Bonds sympathized ownershale with the market. The scores and at 23, and Gonverthibes at 61, which is better; Scored Mortgages 29; Illinois Central very firm at 64!. In Governments there was nothing done.

Exchange is firm, and in large demand. Sterling.

Exchange is firm, and in large demand. Sterling.

Exchange is firm, and in large demand. Sterling.

In Frights there is not much doing. To Liver pool 10,0000 24,075,000 band, Done, Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(6 210). To London, Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores, 164. To Harve, Cotton, 2-302 44; Dead Weight, 7(8 210). The London Some Naval Stores and London Stores and London Stores and London Stores and London Stores and